

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, *ex rel.*,
DONALD R. GALMINES, and the States of
California, Delaware, Hawaii, Illinois, Indiana,
Louisiana, Massachusetts, Michigan, Nevada,
New Hampshire, New Mexico, Tennessee, and
the Commonwealth of Virginia and the District
of Columbia, *et al.*,

Civil Action No. 2:06-cv-03213-GP

Hon. Gene E.K. Pratter

Plaintiffs,

v

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendants.

**NOTICE OF MULTIPLE-STATE DECLINATION
AND STATEMENT OF INTEREST**

The states of Delaware, Hawaii, Illinois, Massachusetts, Michigan, Nevada, Virginia, and the District of Columbia ("the named states"), by and through Elizabeth Valentine, Assistant Attorney General for the State of Michigan as a representative of the National Association of Medicaid Fraud Control Units (NAMFCU) with respect to this declination, hereby inform the Court of their decisions not to intervene in this action, pursuant to the federal False Claims Act, 31 U.S.C. § 3730(b)(4)(B), and their respective state false claims acts. Tennessee has filed a separate notice and the states of Texas and Florida have been voluntarily dismissed from the case.

1. The federal government was notified that this case was unsealed and moving forward, however, the states were not notified by relator that the case was unsealed, nor have the states been served with pleadings. By checking the status of the case on PACER, certain states

became aware that the case was unsealed and defendants had filed a Motion for Summary Disposition. This motion is currently pending and scheduled for oral argument in the coming weeks.

2. The pending Motion for Summary Disposition and supporting memorandum reference certain state statutes and assert that state claims should be dismissed for a various reasons, including because the states failed to intervene. The states were not notified that the seal was lifted and not served with the pleadings in the case. The seal extensions filed by the federal government had included the states. The time for intervention or declination, when the seal was lifted, was not communicated to the states.

3. Relator raised specific state law claims in the Complaint. Massachusetts and other named states assert that, pursuant to the federal False Claims Act, state false claims act claims may be brought as supplemental state law claims in federal court if they arise from “the same actions or occurrences” as the federal FCA claims. *See* 31 U.S.C. § 3732(b). The states respectfully request that the Court refrain from reaching state-specific issues in ruling on the pending Motion for Summary Disposition.

4. Although the United States declined intervention and the named states decline to intervene, § 3730(b)(1) allows the relator to maintain the action in the name of the United States; providing, however, that the “action may be dismissed only if the Court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Most of the state false claims acts contain similar provisions. Accordingly, the states request that if either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, that this Court solicit the written consent of the states before ruling or granting its approval.

5. Pursuant to 31 U.S.C. § 3720(c)(3), and their respective state false claims acts, the named states request that relator serve all future pleadings filed in this action on the states, including any notice of appeal, and all orders issued by the Court. The states reserve the right to order deposition transcripts and to intervene in this action, for good cause shown, at a later date.

A proposed order accompanies this notice.

Dated this 3rd day of October, 2011.

Respectfully submitted,

BILL SCHUETTE
Michigan Attorney General



Elizabeth Valentine (P28872)
Assistant Attorney General
Health Care Fraud Division
P.O. Box 30218
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With permission from and on behalf of
the following states:

Delaware, Hawaii, Illinois, Massachusetts,
Michigan, Nevada, the Commonwealth of
Virginia and the District of Columbia

PROOF OF SERVICE

I, Veronica L. Kelly, hereby certify that a copy of the foregoing *Notice of Multiple State Declination and Notice of Statement*, via US Mail, postage prepaid on the 541 day of October, 2011, to the following:

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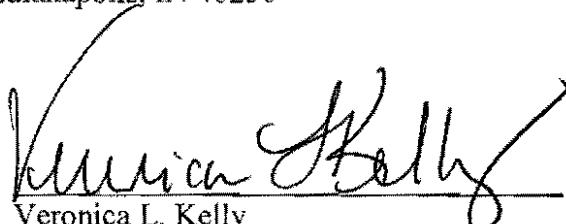
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Veronica L. Kelly
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CASES/2006-08-5166/LGL/NOT.DECLINE.111004

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, *ex rel.*,
DONALD R. GALMINES, and the States of
California, Delaware, Hawaii, Illinois, Indiana,
Louisiana, Massachusetts, Michigan, Nevada,
New Hampshire, New Mexico, Tennessee, and
the Commonwealth of Virginia and the District
of Columbia, *et al.*,

Civil Action No. 06-3213
Hon. Gene Pratter

Plaintiffs,

v

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendants.

**[PROPOSED] ORDER REGARDING NOTICE OF MULTIPLE STATES
DECLINATION AND STATEMENT OF INTEREST**

The states of Delaware, Hawaii, Illinois, Massachusetts, Michigan, Nevada, Rhode Island, Virginia, and the District of Columbia ("the named states") having declined to intervene in this action pursuant to the False Claims Act 31 U.S.C. §3730(b)(4)(B), and their respective state false claims acts, the Court ORDERS that:

1. Relator shall serve all pleadings filed in this action upon the named states, including any notice of appeal, and that all orders issued by the Court be sent to counsel for the named states;
2. The named states shall have the right to order any deposition transcripts and to intervene in this action, for good cause shown, at a later date.

3. The Court shall solicit the written consent of the named states before this action is dismissed, settled, or otherwise discontinued by relator or defendant.

IT IS SO ORDERED.

Dated: _____

Hon. Gene Pratter
United States District Judge

CASES/2006-08-5166/LGL/ORDER.DECLINE.111004